IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

FRIDAY, THE 2ND MARCH 2007 / 11TH PHALGUNA 1928

WP(C).No. 28574 of 2006(S)

OA.493/2003 OF CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH
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PETITIONERS:
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1. **UNION OF INDIA,**
   REPRESENTED BY THE SECRETARY
   TO GOVERNMENT OF INDIA, MINISTRY OF RAILWAYS &
   CHAIRMAN, RAILWAY BOARD, RAIL BHAVAN, NEW DELHI.

2. **THE DIVISIONAL RAILWAY MANAGER,**
   SOUTHERN RAILWAY, PALGHAT DIVISION,
   PALGHAT.

3. **THE SENIOR DIVISIONAL PERSONNEL OFFICER,**
   SOUTHERN RAILWAY, PALGHAT DIVISION,
   PALGHAT.

BY ADV. SRI.M.C.CHERIAN,SR.SC.,RAILWAYS.

RESPONDENT:

V.M.CHANDRA, AGED 52 YEARS,
W/O.MUKUNDAN, PAINTER,
OFFICE OF THE SECTION ENGINEER/WORKS,
SOUTHERN RAILWAY, PALGHAT RESIDING AT
RAILWAY QUARTERS NO.178A, HEAMBIKA NAGAR,
RAILWAY COLONY, OLAVAKODE, PALGHAT.

BY ADV. SRI.T.C.GOVINDA SWAMY.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.28574/2006:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE ORDER DTD. 11/05/1981 OF SR. DPO/PGT (3RD PETITIONER).

EXT.P.2: COPY OF THE ORDER DTD. 28/07/1988 OF DPO/PGT.

EXT.P.3: COPY OF THE ORDER DTD. 11/12/90 OF DPO/PGT.

EXT.P.4: COPY OF THE REPRESENTATION DTD. 24/12/90.

EXT.P.5: COPY OF THE JUDGMENT DTD. 03/08/92 OF CAT/EKM IN OA 119/91.

EXT.P.6: COPY OF THE RULE 159 OF RAILWAY ESTABLISHMENT MANUAL (VOL.I) CHAPTER 1 (SECTION B).

EXT.P.7: COPY OF THE ORDER DTD. 27/10/89 OF CAT/EKM IN O.A.K-304/88.

EXT.P.8: COPY OF THE COMMON ORDER DTD. 30/08/2000 OF CAT/EKM IN O.A. 905/97 AND CONNECTED CASES.

EXT.P.9: COPY OF THE ORDER DTD. 30/11/99 OF CAT/EKM IN O.A. 1478/98.

EXT.P.10: COPY OF THE LETTER/ORDER DTD. 09/03/93 OF DPO/PGT.

EXT.P.11: COPY OF THE JUDGMENT DTD. 13/10/93 OF CAT/EKM IN CCC 158/93 IN O.A. 119/91.

EXT.P.12: COPY OF THE ORDER DTD. 15/09/92 OF RAILWAY BOARD.

EXT.P.13: COPY OF THE ORDER/LETTER DTD. 04/12/92 OF RAILWAY BOARD.

EXT.P.14: COPY OF THE LETTER/ORDER DTD. 08/12/92 OF RAILWAY BOARD.

EXT.P.15: COPY OF THE LETTER/ORDER DTD. 07/02/90 OF RAILWAY BOARD.

EXT.P.16: COPY OF THE LETTER/ORDER DTD. 07/02/90 OF RAILWAY BOARD.

EXT.P.17: COPY OF THE ORDER DTD. 09/04/97 OF RAILWAY BOARD.

EXT.P.18: COPY OF THE CHAPTER XX OF INDIA RAILWAY ESTABLISHMENT MANUAL VOL (II).

EXT.P.19: COPY OF THE ORDER DTD. 08/12/94 OF CAT/EKM IN O.A. 1795/93.

W.P.(C). NO.28574/2006:

EXT.P.20: COPY OF THE ORDER DTD. 08/07/93 OF CPO/MADRAS.

EXT.P.21: COPY OF THE ORDER DTD. 22/07/95 OF CHAIRMAN RAILWAY BOARD ALONG WITH COVERING LETTER DTD. 24/07/95 OF DY. DIRECTOR ESTT (N) RAILWAY BOARD.

EXT.P.22: COPY OF THE ORDER DTD. 03/11/95 OF CAT/EKM IN O.A. 1036/95.

EXT.P.23: COPY OF THE JUDGMENT DTD. 06/04/99 OF SUPREME COURT IN CIVIL APPEAL NO. 11010/96.

EXT.P.24: COPY OF THE LETTER DTD. 01/06/99 OF RESPONDENT TO SR. DEN/CO.ORD/PGT.

EXT.P.25: COPY OF THE ORDER DTD. 12/07/99 OF SR. DPO/PGT (3RD PETITIONER).

EXT.P.26: COPY OF THE O.A. 493/03 ALONG WITH ANNEXURES.

EXT.P.27: COPY OF THE REPLY STATEMENT FILED BY RAILWAY IN O.A. 493/2003.

EXT.P.28: COPY OF THE ORDER DTD. 21/07/06 OF CAT/EKM IN O.A. 493/03.

//TRUE COPY//

prv.

J.B. KOSHY and T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) No. 28574 of 2006 - S

Dated this the 2nd day of March, 2007

Judgment

Petitioner challenges Ext.P28 order of the Central Administrative Tribunal passed in O.A. No.493 of 2003. With regard to the very same matter, there were several rounds of prolonged litigation and the matter was finally decided by the Supreme Court by Ext.P23 judgment. The above judgment is very clear and by the present order after quoting relevant passage from the above judgment and directions of the Supreme Court, the Tribunal has given effect to the above judgment. The Apex Court in Ext.P23 judgment further held as follows:

> "Considering the number of occasions the appellant had approached the Tribunal and the authorities for relief, we do not think that any useful purpose will be served by merely setting aside the order of the authorities and remitting the matter to them. On the other hand, it would be an extraordinary case where we should direct the respondents to absorb the appellant as a ;skilled Artisan in Grade III in appropriate scale as indicated in the communication No.P (5)443/I/Misc./MP/MAS/Vo.X of the Board and

> the benefit thereof should be given to the appellant. However, the appellant will not be entitled to any higher monetary benefits than what she was drawing hitherto. The appellant will be fitted in the appropriate scale by giving increments and continuity in service on that basis. These directions shall be given effect to within a period of three months from today." (Underlining by us for giving emphasis.)

We see no ground to interfere in the order of the Central Administrative Tribunal in a petition under article 227 of the Constitution of India. There is no patent illegality or perverse finding. A poor employee is being shuttled between courts and tribunals and because respondent obtained a favourable order from the Supreme Court, respondent No.2 is intentionally denied the benefits. In the above circumstances, we dismiss the writ petition with cost estimated at Rs.3,000/- to be paid within three months from today.

J.B.KOSHY
JUDGE

T.R.RAMACHANDRAN NAIR
JUDGE

vaa

J.B. KOSHY AND
T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) No.28574/2006 S

Judgment

Dated:2nd March, 2007